

Notice of Allowability

Application No.

10/772,294

Examiner

Johannes P. Mondt

Applicant(s)

KIKAWA ET AL.

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/9/05.
2. ☒ The allowed claim(s) is/are 9 and 10.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

DETAILED ACTION

Amendment filed 6/27/05 forms the basis for this office action. In said Amendment Applicants substantially amended the claims through cancellation of claim 11, whereby the rejection under 35 U.S.C. 112, second paragraph, has been rendered moot, and through amendment of the only remaining elected claims 9 and 10, said amendments to claim 9 successfully overcoming the objections to claims 9-10 for minor informalities. Applicants amended the Specification and submitted a Replacement Sheet for the Drawings of Figure 3.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Juan Carlos Marques (37,072) on 09/09/2005.

The application has been amended as follows:

Previously withdrawn claims 1-8 and 12-21 have been cancelled.

2. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: In the Replacement Sheet filed 6/27/05, in Figure 3, of the two layers with numeral 220 the layer that is located to the extreme left in the Drawing shall be omitted. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

Art Unit: 2826

3. The following is an examiner's statement of reasons for allowance: claims 9 and 10 are allowed. The following is a statement of reasons for the indication of allowable subject matter: closest to prior art found to date is Kaya et al (6,795,480 B1), evidently realizing the problems of excess oxygen in aluminum oxide layers on semiconductor laser facets and disclosing the formation of an aluminum oxide layer 18 on a facet of a laser of the preamble type (Figure 2, title, abstract), teaching avoidance of excess oxygen in said aluminum oxide film, but teaching adherence to the stoichiometric ratio (i.e., Al_2O_3), i.e., $x=0$, instead of the teaching of $\text{Al}_2\text{O}_{3-x}$ with x between 0.03 and 0.3 inclusive as claimed by Applicants. Applicants, on the other hand, clearly provided technical argumentation in support of both limits of the range for the stoichiometric parameter, as evidenced by Figures 11 and 15, and their discussion on pages 6-8.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

JPM

September 9, 2005